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EXAMINER

MONFELDT, SARAH M

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

11/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/647,101	Applicant(s) TURBEVILLE ET AL.	
	Examiner SARAH M. MONFELDT	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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***DETAILED ACTION
Status of Claims***

1. This action is in reply to the Amendment/Response filed on 22 January 2008.
2. Claims 1, 10-17, 19-20 were indicated as amended.
3. Claims 22-26 were added.
4. Claims 2-3, 5-9, 21 were indicated as canceled. (Please note canceled claims should not contain text)
5. Claims 1, 10-17, 22-26 are currently pending and have been examined.

Continued Examination Under 37 CFR 1.114

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 January 2008 has been entered.

Priority

7. Applicants claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged. Please note claims 1, 10-17, 22-26 filed 22 August 2003 do not find support in Provisional Application No. 60/407070 filed 30 August 2002 and Provisional Application No. 60/405607 filed 23 August 2002. For the purposes of Examination claims 1, 10-17, 22-26 have an effective filing date of 22 August 2003.

Information Disclosure Statement

8. It is noted Applicants have not filed an Information Disclosure Statement. Applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56.
9. The Examiner further notes that a search report was issued for WO 2004/019255 which claims priority to Provisional Application 60/405607 filed 23 August 2002 and Provisional Application 60/407070 filed 30 August 2002. Please note the present application claims the benefit of the above provisional applications.

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Specification

10. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 3 and 5-16, 17-21, contain limitations that fail to find support in the specification as filed, which in turn fail to find support in either provisional application which the present application claims the benefit of.
11. The amendment filed 22 January 2008 remains objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: As presented in the Office Action mailed 23 July 2007, claims 3, and 5-16 contained limitations that failed to find support in the specification as originally filed. The amendments made to pages 6-7 (filed 22 January 2008) were not supported by the original disclosure, i.e. the amended paragraphs contain terminology which was not present in the original specification, etc. As such, the Examiner constitutes this as new matter. Furthermore, Applicants have not pointed to specific portions of the original specification which support the amendments to the claims and specification. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 101

12. Claims 1, 10-17, 22-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
- Claims (1, 10-16, 22-26), as recited, are directed toward a method of (determining whether to allow a new trade of a contract into an existing portfolio) comprising the steps of (determining, comparing, netting, etc.). Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-88 (1876)). Since neither of these requirements is met by the claims, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Appropriate correction is required.

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Claims (17-19), as recited, are directed toward a method of (determining whether to allow or to what extent to allow a new trade of a contract into an existing portfolio) comprising the steps of (determining, evaluating, comparing, approving, etc.). Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)). Since neither of these requirements is met by the claims, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Appropriate correction is required.

Claim Rejections - 35 USC § 112, second paragraph

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claims 1, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Vague & Indefinite:

- i. Claim 1 recites "netting the new trade with the existing portfolio", which is not clear since it appears that the trade is added to the exiting portfolio, i.e. netted, in this step. However, based on the steps following the "netting" step, i.e. "approving the new trade when the netted portfolio value..." and "rejecting the new trade when it is determined..." it appears that the "netting" step is a hypothetical step, i.e. a "proposed netting" since the trade is not actually "netted" until it is determined what the impact is on the overall portfolio/margin/VAR. Appropriate correction and clarification is required.
- ii. Claim 17 recites "a total value at risk in an existing portfolio" and "a portfolio value at risk in the existing portfolio". It is not clear what the difference between the total value at risk and a portfolio value at risk. Appropriate clarification and correction is required.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a

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whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 1, 10-16, 17-20, 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheinberg et al. (US 7376614) in view of Garman (US 5819237), further in view of Hassal (WO 01/88771) and Clearing Risk Based Margining.

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim 1 –

As per claim 1, Scheinberg et al. at least at col. 10, l. 18 through col. 11, l. col. 30 disclose *a method of determining whether to allow a new trade of a contract into an existing portfolio* having the limitations of:

- *evaluating a portfolio ... risk in the existing portfolio of traded contracts;*
- *comparing the portfolio ... risk in the existing portfolio to the value of the credit line or the collateral to calculate an available margin;*
- *determining whether the ... trade has a trade ... risk which exceeds the available margin;*
- *approving the ... trade when it is determining that the trade ... risk of the new trade is less than or equal to the available margin;*

Scheinberg et al. does not explicitly disclose:

- *value at risk*
- *determining a credit line or collateral value supporting trading;*
- *determining whether the new trade*
- *approving the new trade*
- *netting the new trade with the existing portfolio to calculate a new portfolio ... risk for the existing portfolio when it is determine that the trade value at risk exceeds the available margin;*
- *approving the new trade when the netted portfolio ... risk with the new trade is less than or equal to the credit line or collateral; and*

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- *rejecting the new trade when it is determined that the netted portfolio ... risk exceeds the credit line or collateral.*

Garman teach *value at risk* (see at least col. 1, ll. 14-20, col. 2, ll. 35-47, col. 3, l. 39 through col. 4, l. 33, col. 4, ll. 46-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. to include value at risk as taught by Garman. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in this way since value at risk is a method for assessment of market-based financial risk in the trading of financial instruments and a VAR analysis statically determines how much of the value of the trading portfolio might be lost over a given period of time with a given level of probability (see at least col. 1, ll. 14-20 of Garman).

Hassal teach *determining a credit line or collateral value supporting trading; determining whether the new trade; approving the new trade* (see at least pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, ll. 10-23; pg. 8, ll. 4-16; pgs. 15-16). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. in view of Garman to include credit/collateral for trading and determining whether or not to allow a new trade within an order as taught by Hassal. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in view of Garman in this way since the order is confirmed if the client's margin account is at least equal to a potential position that would result if the order were filled times maximum market swing value times a threshold value factor and if the clients' margin account contains less than this value, the order is rejected or adjusted (see at least pg. 2, l. 32 through pg. 3 of Hassal).

Clearing Risk Based Margining teaches *netting the new trade with the existing portfolio to calculate a new portfolio ... risk for the existing portfolio when it is determined that the trade value at risk exceeds the available margin; approving the new trade when the netted portfolio ... risk with the new trade is less than or equal to the credit line or collateral; rejecting the new trade when it is determined that the netted portfolio ... risk exceeds the credit line or collateral* (see at least pg. 14-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. in view of Garman to include cross margining as taught by Clearing Risk Based Margining. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in view of Garman in this way since cross margining promotes liquidity because by offsetting equal but opposite risks it leads to considerably less collateral being required to cover the various positions in an account than would be the case if the sum of all margin requirements for each individual contract had to be deposited (see at least pg. 14 of Clearing Risk Based Margining).

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Claim 10 –

As per claim 10, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26 and Hassal at least at pg. 7, ll. 22-23 further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the trade value at risk measure used is calculated based on a percentage of an index value.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 11 –

As per claim 11, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the trade value at risk measurement used is calculated based on a percentage of the contract value.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 12 –

As per claim 12, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein different determinations of the trade value at risk are made for specific products and contract terms.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 13 –

As per claim 13, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

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- *wherein certain determinations of the trade value at risk may cover may different products and/or contract terms.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 14 –

As per claim 14, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Hassal, at least at see at least pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, 10-23; pg. 8, ll. 4-16; pgs. 15-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the trade value at risk exceeds the available margin for the new trade by comparing the value at risk for a unit quantity of the new trade to the available margin.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 15 –

As per claim 15, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Hassal, at least at Scheinberg et al., further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the trade value at risk exceeds the available margin for the new trade is done by comparing the trade value at risk for a dollar value of new trade.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 16 –

As per claim 16, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Hassal at least at pg. 2, l. 32 through pg. 3, l. 8; pg. 7, ll. 22-23 further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the trade value at risk exceeds the available margin for the new trade by comparing the trade value at risk for a quantity of the new trade multiplied by an index value to the available margin.*

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The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 17 –

As per claim 1, Scheinberg et al. at least at col. 10, l. 18 through col. 11, l. col. 30 disclose *method of determining whether or to what extent to allow a new trade of a contract into an existing portfolio* having the limitations of:

- *evaluating a total ... risk in an existing portfolio of traded contracts;*
- *comparing a portfolio value at risk in the existing portfolio to the value of credit or collateral amounts to calculate an available margin;*
- *determining whether a trade value at risk of the ... trade exceeds the available margin;*
- *approving the ... trade when it is determined that the trade value at risk is less than or equal to the available margin;*

Scheinberg et al. does not explicitly disclose:

- *value at risk*
- *determining a credit line or collateral value supporting trading;*
- *determining whether the new trade*
- *approving the new trade*
- *determining a value at risk for at least one unit of the trade when it is determined that the trade value at risk exceeds the available margin;*
- *determining how many units of the new trade are acceptable to be added to the portfolio without the trade value at risk exceeding the available margin and approving a trade of that number of units of the new trade; and*
- *rejecting all or part of the units of the new trade that have a value at risk that exceeds the available margin.*

Garman teach *value at risk* (see at least col. 1, ll. 14-20, col. 2, ll. 35-47, col. 3, l. 39 through col. 4, l. 33, col. 4, ll. 46-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. to include value at risk as taught by Garman. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in this way since value at risk is a method for assessment of market-based financial risk in the trading of financial instruments and a VAR analysis statically determines how much of the value of the

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trading portfolio might be lost over a given period of time with a given level of probability (see at least col. 1, ll. 14-20 of Garman).

Hassal teach *determining a credit line or collateral value supporting trading; determining whether the new trade; approving the new trade* (see at least pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, 10-23; pg. 8, ll. 4-16; pgs. 15-16). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. in view of Garman to include credit/collateral for trading and determining whether or not to allow a new trade within an order as taught by Hassal. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in view of Garman in this way since the order is confirmed if the client's margin account is at least equal to a potential position that would result if the order were filled times maximum market swing value times a threshold value factor and if the clients' margin account contains less than this value, the order is rejected or adjusted (see at least pg. 2, l. 32 through pg. 3 of Hassal).

Clearing Risk Based Margining teaches *determining a value at risk for at least one unit of the trade when it is determined that the trade value at risk exceeds the available margin; determining how many units of the new trade are acceptable to be added to the portfolio without the trade value at risk exceeding the available margin and approving a trade of that number of units of the new trade; rejecting all or part of the units of the new trade that have a value at risk that exceeds the available margin* (see at least pg. 14-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Scheinberg et al. in view of Garman to include cross margining as taught by Clearing Risk Based Margining. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Scheinberg et al. in view of Garman in this way since cross margining promotes liquidity because by offsetting equal but opposite risks it leads to considerably less collateral being required to cover the various positions in an account than would be the case if the sum of all margin requirements for each individual contract had to be deposited (see at least pg. 14 of Clearing Risk Based Margining).

Claim 18 –

As per claim 18, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the unit of the new trade is a unit quantity of the new trade.*

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The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 17.

Claim 19 –

As per claim 19, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the unit of the new trade is a dollar value of new trade.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 17.

Claim 20 –

As per claim 20, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26 and Hassal at least at pg. 7, ll. 22-23, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the unit of the new trade is a quantity of trade multiplied by an index value.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 17.

Claim 22 –

As per claim 22, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Hassal and Clearing Risk Based Margining, at least at pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, 10-23; pg. 8, ll. 4-16; pgs. 15-16 of Hassal and pgs. 14-15 of Clearing Risk Based Margining, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *determining a value at risk for at least one unit of the new trade when it is determined that the netted portfolio value at risk exceeds the available margin;*
- *determining how many units of the new trade are acceptable to be added to the portfolio without the trade value at risk exceeding the available margin and approving a trade of that number of units of the new trade; and*
- *rejecting all or part of the units of the new trade that have a value at risk that exceeds the available margin.*

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The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 23 –

As per claim 22, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 1 as described above. Scheinberg et al. at least at col., 11, ll. 22-25, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *performing a clearing at least at the end of each day for updating the portfolio value at risk and the available margin.*

Claim 24 –

As per claim 22, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 23 as described above. Hassal at least at pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, 10-23; pg. 8, ll. 4-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *determining an allowable notional trade volume for a new trade.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 25 –

As per claim 22, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 23 as described above. Hassal at least at pg. 2, ll. 25-27; pg. 2, l. 32 through pg. 3, l. 10; pg. 5, ll. 28-29; pg. 6, ll. 6-21; pg. 7, 10-23; pg. 8, ll. 4-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *determining an allowable notational trade quantity for a new trade.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Claim 26 –

As per claim 22, Scheinberg et al. in view of Garman, further in view of Hassal and Clearing Risk Based Margining teach the method of claim 23 as described above. Garman at least at col. 1, ll. 14-20, col. 2, ll.

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35-47, col. 3, l. 39 through col. 4, l. 33, col. 4, ll. 46-55, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *determining a risk per unit of commodity for a new trade.*

The motivation for making this modification to the teachings of Scheinberg et al. is the same as that set forth above, in the rejection of Claim 1.

Response to Arguments

18. Applicant's arguments with respect to claims 1, 10-17, 22-26 have been considered but are moot in view of the new ground(s) of rejection.

19. The Examiner notes that new claims 24-25 recite "notional trade volume", "notional trade quantity", respectfully, and that notional value is defined as the underlying value (face value), normally expressed in U.S. dollars, of the financial instrument or commodity specified in a futures or options contract.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH M. MONFELDT whose telephone number is (571)270-1833. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm (EST) ALT Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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